



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/736,988	12/14/2000	Nk Srinivas	50037.10US01/163942.1	8473

7590 05/20/2004  
Timothy P. Sullivan  
Merchant & Gould P.C.  
P.O. Box 2903  
Minneapolis, MN 55402-0903

EXAMINER

BAROT, BHARAT

ART UNIT PAPER NUMBER

2155

DATE MAILED: 05/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/736,988

Applicant(s)

SRINIVAS ET AL.

Examiner

Bharat N Barot

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 02.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

**Specification**

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

**Claim Rejections - 35 USC § 102**

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Toporek et al (U.S. Patent No. 6,654,344). Toporek's patent meets all the limitations for claims 1-14 recited in the claimed invention.

4. As to claim 1, Toporek et al teach a computer-implemented method for automatically tuning a size of a TCP receive window comprising: determining a bandwidth of a network connection; and automatically tuning the size of the TCP receive window based on the determined bandwidth (figure 3G; column 5 lines 21-40; column 9 lines 41-48; column 17 lines 1-45; and column 18 lines 8-27 and 43-58).
5. As to claim 2, Toporek et al teach the steps of: obtaining at least one attribute of a network connection device; and determining the bandwidth of the network connection from the at least one obtained attribute (figure 3G; and column 17 lines 1-45).
6. As to claim 3, Toporek et al teach the steps of: determining the size of the TCP receive window based on the determined bandwidth; and setting the size of the TCP receive window to the determined size (column 18 lines 8-28).
7. As to claim 4, Toporek et al teach a step of: accessing the size of the TCP receive window from a look-up table (column 5 lines 21-40).
8. As to claim 5, Toporek et al teach a step of: determining a speed of the network connection device or a name of the network connection device (column 7 line 66 to column 8 line 35; and column 17 lines 1-25).

9. As to claim 6, Toporek et al teach the steps of: monitoring the network connection to determine if the network connection has changed: and tuning the size of the TCP receive window if the network connection has changed (figure 3G; column 17 lines 1-45; and column 18 lines 8-27 and 43-58).

10. As to claims 7-10, they are also rejected for the same reasons set forth to rejecting claims 1-4 and 6 above, since claims 7-10 are merely a computer readable medium having instructions for controlling the method of operations defined in the claims 1-4 and 6.

11. As to claims 11-14, they are also rejected for the same reasons set forth to rejecting claims 1-2 and 5-6 above, since claim 11-14 are merely an apparatus to performing the method of operations defined in the claims 1-2 and 5-6.

**Additional Reference**

12. The examiner as of general interest cites the following reference.

- a. Bauman, U.S. Patent No. 6,046,979.

**Contact Information**

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bharat Barot whose telephone number is (703) 305-4092. The examiner can normally be reached on Monday-Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alam, Hosain, can be reached at (703) 308-6662. A central official fax number is (703) 872-9306.

Any inquiry of general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 305-3900.

Patent Examiner Bharat Barot

Art Unit 2155

May 07, 2004

*Bharat Barot.*  
**BHARAT BAROT**  
**PRIMARY EXAMINER**